

अण्डमान तथा
Andaman And



निकोबार राजपत्र
Nicobar Gazette

असाधारण

EXTRAORDINARY

प्राधिकार से प्रकाशित
Published by Authority

सं. 280, पोर्ट ब्लेयर, बृहस्पतिवार, 17 नवम्बर, 2011

No. 280, Port Blair, Thursday, November 17, 2011

No.6-9/2010-Legal

ANDAMAN AND NICOBAR ADMINISTRATION

SECRETARIAT

NOTIFICATION

Port Blair, dated the 17th November, 2011

No.280/2011/F.No.6-9/2010-Legal.—The following Act, published in the Gazette of India, Extra Ordinary, Part II, and Section I is hereby reproduced below for information of the General Public.

Sd./-
(Rizwanullah)
Deputy Secretary (Law)

THE NATIONAL GREEN TRIBUNAL ACT, 2010
ARRANGEMENT OF SECTION

CHAPTER I

PRELIMINARY

SECTION

1. Short title and communication
2. Definitions.

CHAPTER II

ESTABLISHMENT OF THE TRIBUNAL

3. Establishment of Tribunal.
4. Composition of Tribunal.
5. Qualifications for appointment of Chairperson, Judicial Member and Expert Member.
6. Appointment of Chairperson, Judicial Member and Expert Member.
7. Term of office and other conditions of service of Chairperson, Judicial Member and Expert Member.
8. Resignation.
9. Salaries, allowances and other terms and conditions of service.
10. Removal and suspension of Chairperson, Judicial Member and Expert Member.
11. To act as Chairperson of Tribunal or to discharge his functions in certain circumstances.
12. Staff of Tribunal
13. Financial and administrative powers of Chairperson.

CHAPTER III

JURISDICTION, POWERS AND PROCEEDINGS OF THE TRIBUNAL

14. Tribunal to settle disputes.
15. Relief, compensation and restitution.
16. Tribunal to have appellate jurisdiction.
17. Liability to pay relief or compensation in certain cases.
18. Application or appeal to Tribunal.
19. Procedure and powers of Tribunal.
20. Tribunal to apply certain principles.
21. Decision to be taken by majority.
22. Appeal to supreme Court.
23. Cost.
24. Deposit of amount payable for damage to environment.
25. Execution of award or order or decision of Tribunal.

CHAPTER IV

PENALTY

26. Penalty for failure to comply with orders of Tribunal.
27. Offences by companies.
28. Offences by Government Department,

CHAPTER V

MISCELLANEOUS

29. Bar of jurisdiction.
30. Cognizance of offences.
31. Members and staff of Tribunal to be public services.
32. Protection of action taken in good faith.
33. Act to have overriding effect.
34. Power to amend schedule I.
35. Power to make rules.
36. Amendment of certain enactments.
37. Power to remove difficulties.
38. Repeal and savings.

SCHEDULE I

SCHEDULE II

SCHEDULE II

THE NATIONAL GREEN TRIBUNAL ACT, 2010
AN**ACT**

To provide for the establishment of a National Green Tribunal for the effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment and giving relief and compensation for damages to persons and property and for matters connected therewith or incidental thereto.

AND WHEREAS India is a party to the decisions taken at the United nations Conference on the Human Environment held at Stockholm in June, 1972, in which India participated, calling upon the States to take appropriate steps for the protection and improvement of the human environment;

AND WHEREAS decisions were taken at the United nations Conference on Environment and Development held at *Rio de Janeiro* in June, 1992, in which India Participated, calling upon th States to provide effective access to judicial and administrative proceedings, including redress and remedy and to develop national laws regarding liability and compensation for the victims of pollution and other environmental damage;

AND WHEREAS in the judicial pronouncement in India, the right to healthy environment has been construed as a part of the right to life under article 21 of the Constitution;

AND WHEAREAS it is considered expedient to implement the decisions taken at the aforesaid conferences and to have a National Green Tribunal in view of the involvement of multi-disciplinary issues relating to the environment.

BE it enacted by Parliament in the Sixty-first year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the national Green Tribunal Act, 2010. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. (1) In this Act, unless the context otherwise requires,— Definitions.

(a) “accident” means an accident involving a fortuitous or sudden or unintended occurrence while handling any hazardous substance or equipment, or plant, or vehicle resulting in continuous or intermittent or repeated exposure to death, of or, injury to, any person or damage to any property or environment but does not included an accident by reason only of war or civil disturbance

(b) “Chairperson” means the Chairperson of the National Green Tribunal;

(c) “environment” includes water, air and land and the inter-relationship, which exists among and between water, air and land and human beings, other living creatures, plants, micro-organism and property;

(d) “Expert Member” means a member of the Tribunal who, is appointment as such, and holds qualifications specified in sub-section (2) of section 5, and, is not a Judicial Member;.

(e) “handling”, in relation to any hazardous substance, means the manufacture, processing, treatment, package, storage transportation, use collection, destruction, conversion, offering for sale, transfer or the like of such hazardous substance;

29 of 1986.
6 of 1991.

(f) “hazardous substance” means any substance or preparation which is defined as hazardous substance in the Environment (Protection) Act, 1986, and exceeding such quantity as specified or may be specified by the Central Government under the Public Liability Insurance Act, 1991;

(g) “injury” including permanent, partial or total disablement or sickness resulting out of an accident;

(h) “Judicial Member” means a member of the Tribunal who is qualified to be appointed as such under sub-section (1) of section 5 and includes the Chairperson;

(i) “notification” means a notification published in the Official Gazette;

- (j) “person” includes—
- (i) an individual,
 - (ii) a Hindu undivided family,
 - (iii) a company,
 - (iv) a firm,
 - (v) an association of persons or a body or individuals, whether incorporated or not,
 - (vi) trustee of trust,
 - (vii) a local authority, and
 - (viii) every artificial juridical person, not falling within any of the proceeding sub-clauses;
- (k) “prescribed” means prescribed by rules made under this Act;
- (l) “Schedule” means Schedules I, II and III appended to this Act:
- (m) “substantial question relating to environment” shall include an instance where,—
- (i) there is a direct violation of a specific statutory environmental obligation by a person by which,—
 - (A) the community at large other than an individual or group of individual is affected or likely to be affected by the environmental consequences; or
 - (B) the gravity of damage to be environment or property is substantial; or
 - (C) the damage to public health is broadly measurable;
 - (ii) the environmental consequence relate to a specific activity or a point source of pollution;
- (n) “Tribunal” means the National Green Tribunal established under section 3;
- (o) “workman” has the meaning assigned to it in the 8 of 1923. Workmen’s Compensation Act, 1923.
- (2) The words and expressions used in this act but not defined 6 of 1974. herein and defined in the Water (Prevention and Control of Pollution) 36 of 1977. Act, 1974, the Water (Prevention and Control of Pollution) Cess Act, 69 of 1980. 1977, the Forest (Conservation) Act, 1980, the Air (Prevention and 14 of 1981. Control of Pollution) Act, 1981, the Environment (Protection) Act, 1986, 29 of 1986. the Public Liability Insurance act, 1991 and the Biological Diversity Act, 8 of 1991. 2002 and other Acts relating to environment shall have the meaning, 18 of 2003. respectively, assigned to them in those Acts.

CHAPTER II

ESTABLISHMENT OF THE TRIBUNAL

Establishment
of Tribunal.

3. The Central Government shall, by notification, establish, with effect from such date as may be specified therein, a Tribunal to be known as the National Green Tribunal to exercise the jurisdiction, powers and authority conferred on such Tribunal by or under this act.

Composition of
Tribunal.

4. (1) The Tribunal shall consist of —

- (a) a full time chairperson;
- (b) not less than ten but subject to maximum of twenty full time Judicial Members as the Central Government may, from time to time, notify;

(c) not less than ten but subject to maximum of twenty full time Expert Members, as the Central Government may, from time to time, notify.

(2) The Chairperson of the Tribunal may, if considered necessary, invite any one or more person having specialized knowledge and experience in a particular case before the Tribunal to assist Tribunal in that case.

(3) The Central Government may, by notification, specify the ordinary place or places of sitting of the Tribunal, and the territorial jurisdiction falling under each such place of sitting.

(4) The Central Government may, in consultation with the Chairperson of the Tribunal, make rules regulating generally the practices and procedure of the Tribunal including —

(a) the rules as to the persons who shall be entitled to appear before the Tribunal;

(b) the rules as to the procedure for hearing applications and appeals and other matters [including the circuit procedure for hearing at a place other than the ordinary place of its sitting falling within the jurisdiction referred to in sub-section (3)], pertaining to the applications and appeals;

(c) the minimum number of Members who shall hear the applications and appeals in respect of any class or classes of applications and appeals;

Provided that the number of Expert Members shall, in hearing an application or appeal, be equal to the number of Judicial Members hearing such application or appeal;

(d) rules relating to transfer of cases by the Chairperson from one place of sitting (including the ordinary place of sitting) to other place of sitting.

5. (1) A person shall not be qualified for appointment as the Chairperson or Judicial member of the Tribunal unless he is, or has been, a Judge of the Supreme Court of India or Chief Justice of a High Court.

Provided that a person who is or has been a Judge of the High Court shall also be qualified to be appointed as a Judicial member.

(2) A person shall not be qualified for appointment as an Expert Member, Unless he,—

(a) has a degree in Master of Science (in Physical science or life sciences) with a Doctorate degree or master of Engineering or Master of Technology and has an experience of fifteen years in the relevant field including five years practical experience in the field of environment and forests (including pollution control, hazardous substance management, environment impact assessment, climate change management, biological diversity management and forest conservation in a reputed National level institution; or

(b) has administrative experience of fifteen years including experience of five years in dealing with environmental matters in the Central or a State Government or in a reputed National or State level institution.

(3) The Chairperson, Judicial Member and Expert Member of the Tribunal shall not hold any other office during their tenure as such.

(4) The Chairperson and other Judicial and Expert members shall not, for a period of two years from the date on which they cease to hold office, accept any employment in, or connected with the management or administration of, any person who has been a party to a proceeding before the Tribunal under this Act:

Qualifications
for
appointment of
Chairperson,
Judicial
Member and
Expert
Member.

Provided that nothing contained in this section shall apply to any employment under the Central Government or a State Government or local authority or in any statutory authority or any corporation established by or under any Central, State or provincial Act or a Government company as defined in section 617 of the Companies act, 1956.

Appointment
of
Chairperson,
Judicial
member and
Expert
Member

6. (1) Subject to the provisions of section 5, the Chairperson, Judicial Members and Expert members of the Tribunal shall be appointed by the Central Government.

(2) The Chairperson shall be appointed by the Central Government in consultation with the Chief Justice of India.

(3) The Judicial Members and Expert Members of the Tribunal shall be appointed on the recommendations of such Selection Committee and in such manner as may be prescribed.

7. The Chairperson, Judicial member and Expert Member of the Tribunal shall hold office as such for a term of five years from the date on which they enter upon their office, but shall not be eligible for re-appointment:

Provided that in case a person, who is or has been a Judge of the Supreme Court, has been appointed as Chairperson or Judicial member of the Tribunal, he shall not hold office after he has attained the age of seventy years:

Provided further that in case a person, who is or has been the Chief Justice of a High Court, has been appointed as Chairperson or Judicial Member of the Tribunal, he shall not hold office after he has attained the age of sixty-seven years:

Provided also that in case a person, who is or has been a Judge of a High Court, has been appointed as Judicial member of the Tribunal, he shall not hold office after he has attained the age of sixty-seven years:

Provided also that no Expert member shall hold office after he has attained the age of sixty-five years.

8. The Chairperson, Judicial member and Expert Member of the Tribunal may, by notice in writing under their hand addressed to the Central Government, resign their office.

9. The salaries and allowances payable to, and the other terms and conditions of service (including pension, gratuity and other retirement benefits) of the Chairperson, Judicial Member and Expert member of the Tribunal shall be such as may be prescribed:

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson, Judicial Member and Expert Member shall be varied to their disadvantage after their appointment.

Removal and
suspension of
Chairperson,
Judicial
Member and
Expert
member.

10. (1) The Central Government may, in consultation with the Chief Justice of India, remove from office of the Chairperson or Judicial Member of the Tribunal, who,—

(a) has been adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) has become physically or mentally incapable; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions; or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest.

(2) The Chairperson or Judicial Member shall not be removed from his office except by an order made by the Central Government after an inquiry made by a Judge of the Supreme court in which such Chairperson or Judicial member has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

(3) The Central Government may suspend from office the Chairperson or Judicial member in respect of whom a reference of conducting an inquiry has been made to the Judge of the Supreme Court under sub-section (2), until the Central Government passes an order on receipt of the report of inquiry made by the Judge of the Supreme court on such reference.

(4) The Central Government may, by rules, regulate the procedure for inquiry referred to in sub-section (2).

MGPPB—289/Gazette/11 — 25 Copies.(YSN)

THE ENERGY CONSERVATION (AMENDMENT) ACT, 2010

<p>ASSENTED TO ON 24TH AUGUST, 2010 ACT No. 28 OF 2010</p>
